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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,816	03/06/2002	Scott Edward Klopfenstein	PU010195	8470

7590 06/05/2008  
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EXAMINER
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SALCE, JASON P

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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06/05/2008

PAPER

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* SCOTT EDWARD KLOPFENSTEIN

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Appeal 2007-3440  
Application 10/091,816<sup>1</sup>  
Technology Center 2600

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Decided: June 5, 2008

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Before MAHSHID D. SAADAT, JOHN A. JEFFERY, and MARC S.  
HOFF, *Administrative Patent Judges*.

HOFF, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellant appeals under 35 U.S.C. § 134 from a Final Rejection of claims 1-20. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Appellant's invention relates to method and apparatus for storing program guide information. User interaction with a graphical object is used

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<sup>1</sup> Application filed March 6, 2002. The real party in interest is Thomson Consumer Electronics Inc.

to determine the level of program information to be stored and the schedule length for the stored program guide information (Spec. 2).

Claim 1 is exemplary:

1. A method for storing program guide information for a plurality of programs in a receiver, said method comprising:

determining, a program guide information level in response to user interaction with a graphical object indicative of said program guide information level;

determining, in response to said program guide information level, a program guide schedule length; and

storing program guide data according to said program guide information level and said program guide schedule length.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Bruette

US 5,694,176

Dec. 2, 1997

Harada

US 6,246,442 B1

Jun. 12, 2001<sup>2</sup>

Claims 1, 3-7, 10, 11, and 20 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Harada.

Claims 2, 8, 9, and 12-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Harada in view of Bruette.

Appellant contends that Harada does not teach determining a program guide information level in response to user interaction with a graphical object indicative of said program guide information level, nor determining, in response to said program guide information level, a program guide schedule length (Br. 5).

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<sup>2</sup> U.S. Patent Application Publication No. 2002/0124256 to Suzuka, filed September 5, 2002, is cited by the Examiner to support the Examiner's taking of Official Notice with respect to the subject matter of claim 12.

Rather than repeat the arguments of Appellant or the Examiner, we make reference to the Appeal Brief (filed August 13, 2004) and the Examiner's Answer (mailed May 8, 2006) for their respective details.

#### ISSUE

The principal issue in the appeal before us is whether the Examiner erred in holding that Harada teaches determining a program guide information level in response to user interaction with a graphical object indicative of said program guide information level.

#### FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

##### *The Invention*

1. According to Appellant, he has invented method and apparatus for storing program guide information, in which user interaction with a graphical object is used to determine the level of program information to be stored and the schedule length for the stored program guide information (Spec. 2).

##### *Harada*

2. Harada teaches displaying an electronic broadcast program guide, in which a user may select the "detail degree" of the program guide listings (Abstract; col. 14, ll. 51-63).

3. Figures 8-10 of Harada illustrate program guides displayed at first, second, and third detail degrees respectively. More information is displayed at second degree than at first, and more at third degree than at second (see col. 16, ll. 1-18).

4. Harada provides a Layout Correspondence table that illustrates a direct relationship between detail degree and program guide schedule length (Fig. 7). For example, at the first (or lowest) detail degree, when a user selects a program guide layout with channel on the X axis and time on the Y axis, six columns of time information will be displayed; at the third (or highest) detail degree, only three columns of time information will be displayed (col. 15, ll. 26-48).

5. Harada's display information table producing unit 18 receives detail degree and cell layout information from other subsystems of his apparatus (col. 14, ll. 3-11). The display information table producing unit retrieves relevant program guide elements according to the detail degree and cell layout information and arranges those elements in appropriate cells, producing a display information table (col. 14, ll. 15-27; col. 15, ll. 54-62). This table is then used by display image producing unit 19 to produce a display image of the groups of particular program guide elements of the particular broadcasting program guides arranged in the particular cells (col. 14, ll. 31-36).

#### PRINCIPLES OF LAW

Anticipation is established when a single prior art reference discloses expressly or under the principles of inherency each and every limitation of the claimed invention. *Atlas Powder Co. v. IRECO Inc.*, 190 F.3d 1342, 1346 (Fed. Cir. 1999); *In re Paulsen*, 30 F.3d 1475, 1478-79 (Fed. Cir. 1994).

In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of establishing a prima facie case of obviousness. *In re Piasecki*, 745 F.2d 1468, 1472 (Fed. Cir. 1984). The Examiner can satisfy

this burden by showing some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *KSR Int'l v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007) (citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)). Only if this initial burden is met does the burden of coming forward with evidence or argument shift to the Appellant. *Piasecki*, 745 F.2d at 1472. Thus, the Examiner must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the Examiner's conclusion.

#### ANALYSIS

##### *Claims 1, 3-7, 10, 11, and 20*

We select claim 1 as representative of this group, pursuant to our authority under 37 C.F.R. § 41.37(c)(1)(vii).

Appellant argues that Harada does not disclose or suggest determining a program guide information level in response to user interaction with a graphical object indicative of said information level (Br. 5). Harada teaches, however, that a user may select the “detail degree” of its electronic program guide (FF 2). Figures 8-10 of Harada illustrate program guides displayed at first, second, and third detail degrees respectively. More information is displayed at second degree than at first, and more at third degree than at second (FF 3). We agree with the Examiner that Harada's electronic program guide meets the claimed “graphical object” indicative of the program guide information level (Ans. 4, 10-11), because Harada teaches a graphic interface, put up on a display (see Fig. 69), to allow selection of the detail degree (Ans. 11; col. 12, ll. 20-24). We therefore find that Harada

does teach determining a program guide information level in response to user interaction with a graphical object indicative of said information level.

Appellant further argues that Harada does not disclose or suggest determining, in response to the program guide information level, a program guide schedule length (Br. 5). We find Appellant's argument unpersuasive because Harada provides a Layout Correspondence table that illustrates a direct relationship between the information level ("detail degree" in Harada) and the program guide schedule length (FF 4). For example, at the first (i.e., lowest) detail degree, when a user selects a program guide layout with channel on the X axis and time on the Y axis, six columns of time information will be displayed; at the third (i.e., highest) detail degree, only three columns of time information will be displayed (*Id.*). We therefore find that Harada teaches determining program guide schedule length in response to program guide information level.

Finally, Appellant argues that Harada does not disclose or suggest storing program guide data according to said program guide information level and said program guide schedule length (Br. 7). We find Appellant's argument unpersuasive. Harada's display information table producing unit 18 receives detail degree and cell layout information from other subsystems of his apparatus (FF 5). The display information table producing unit retrieves relevant program guide elements according to the detail degree and cell layout information and arranges those elements in appropriate cells, producing a display information table (*Id.*). This table is then used by display image producing unit 19 to produce a display image of the groups of particular program guide elements of the particular broadcasting program guides arranged in the particular cells (*Id.*). We find that Harada's creation

of the display information table constitutes storage of program guide data according to the information level (“detail degree”) and program guide schedule length.

Appellant discusses claims 3 and 4 in discrete paragraphs (Br. 8-9), but presents the same argument regarding schedule length which was raised regarding claim 1. The further mere statement that Harada does not disclose the limitations recited in claim 3 or 4, respectively, without more, does not constitute a separate argument. *See* 37 CFR § 41.37(c)(1)(vii). We therefore affirm the rejection of claims 3 and 4 for the reasons expressed *supra* with regard to claim 1.

Because we find that Harada teaches all the elements of claim 1, we find no error in the rejection of claim 1, nor of claims 3-7, 10, 11, and 20 not separately argued, under 35 U.S.C. § 102.

*Claims 2, 8, 9, and 12-19*

Appellant argues again that Harada does not teach the subject matter of claim 1, and further argues that Bruette does not supply the teachings alleged to be missing from Harada (Br. 10-12).

Because we find *supra* that Harada anticipates claim 1, we find Appellant’s arguments unpersuasive. We therefore find no error in the Examiner’s rejection of claims 2, 8, 9, and 12-19 under 35 U.S.C. § 103.

CONCLUSION OF LAW

We conclude that Appellant have not shown that the Examiner erred in rejecting claims 1-20. Claims 1-20 are not patentable.

DECISION

The Examiner’s rejection of claims 1-20 is affirmed.

Appeal 2007-3440  
Application 10/091,816

AFFIRMED

gvw

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